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Intellectual Property Department
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EXAMINER

KIM, HEE SOO

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL SCHLERETH

Appeal 2009-007429
Application 10/519,627
Technology Center 2400

Before JAMES D. THOMAS, CAROLYN D. THOMAS, and STEPHEN C.
SIU, *Administrative Patent Judges*.

J. THOMAS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

This is a decision on appeal under 35 U.S.C. § 134 (a) from the Examiner's final rejection of claims 28 through 32 and 34 through 46. Claims 1 through to 27 and 33 have been canceled. We have jurisdiction under 35 U.S.C. § 6 (b).

We affirm.

INVENTION

The invention relates to a system and a method for communication between automation appliances. According to the invention, peer-to-peer communication over the Intranet or Internet is carried out, enabling a direct exchange of information between the automation appliances. Each automation appliance is used to send a request via the data transmission system to all other automation appliances known to the same. All of the automation appliances are used to forward a received request to all other automation appliances known thereto. (Abst., Spec. 14.)

REPRESENTATIVE CLAIM

28. A method for communication and/or transmission of information between automation devices via a data transmission system, the method comprising: sending and/or receiving requests and/or replies by each participating automation device, wherein the communication and/or transmission of information takes place directly between the automation devices; and sending an address by the automation devices directly to the automation device which submits the request, wherein all of the automation devices forward each request which arrives via a receiving mechanism to all other automation devices for which it has knowledge.

PRIOR ART AND EXAMINER'S REJECTION

The Examiner relies upon the following reference as evidence of anticipation:

Primm	US 7,159,022 B2	Jan. 2, 2007 (filed Jan. 25, 2002)
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All claims on appeal, claims 28 through 32 and 34 through 46, stand rejected under 35 USC 35 U.S.C. § 102(e).

ANALYSIS

We refer to, rely on, and adopt the Examiner's findings and conclusions set forth in the Answer. Our analysis here will be limited to the following points of emphasis.

As set forth in the principal Brief on appeal, among independent claims 28, 37, and 44, corresponding features are argued and recited in each of them, such as the closing feature of representative independent claim 28: "wherein all of the automation devices forward each request which arrives via a receiving mechanism to all other automation devices for which it has knowledge."

Primm's network appliances correspond to the claimed automation devices. In Primm they are characterized as network-enabled appliances. More specifically, Primm's network appliances communicate with each other on a peer-to-peer basis permitting a direct exchange of information between Primm's appliances. These techniques include selective pinging or polling each other, such as to communicate with each other with or without servers. Various embodiments in Primm permit each appliance to directly send, receive and forward requests to other network appliances including monitoring of data, collecting of data, and propagating information or commands to each other. The Summary of the Invention at columns 3 and 4 emphasizes the peer-to-peer basis of the communication discussed in detail throughout Primm's disclosure. This is illustrated in figure 5. Figure 8 illustrates the details of a network appliance for his peer-to-peer

communication technique. This figure and succeeding figures illustrate the use of directories within each network appliance, including directories of other appliances on the network.

Thus, Primm is consistent with the disclosed and claimed invention. Appellant's Summary of the Invention in paragraphs [0009] through [0012] of his Specification utilizes standard protocols, such as HTTP sockets, including socket 80, to permit such a well known single interface in the art to communicate between the disclosed automation devices. Specification paragraph [0021], more specifically, in part utilizes the well known and so-called HTTP Post interface methodology to perform the features of the disclosed and claimed invention.

Returning to Primm's teachings, not only does Primm teach peer-to-peer communication network-enabled appliances, but Primm also utilizes standard protocols in the art, including HTTP as first noted at column 4 of his patent and, most significantly, the use of the same HTTP Post interface technique that provides the basis of Appellant's disclosed and claimed invention. In various embodiments, Primm emphasizes repeatedly the use of peer-to-peer network enabled appliance communication techniques utilizing the same HTTP Post interface technique utilized by Appellant to achieve the same argued functionality.

The fact that the Examiner has indicated to Appellant, and that Appellant recognizes at page 2 of the Reply Brief, that Primm's appliances may communicate with some or all other appliances within his network is

inclusive of the ability taught in certain instances that any appliance in Primm will communicate with all other network appliances within its directory-based knowledge. The position at the top of page 3 of the Reply Brief that the sending clause of representative independent claim 28 on appeal is not met by Primm will not be entertained since it was not contested and argued in the principal Brief on appeal. Its presentation here is untimely.

The Examiner's statement of the rejection addresses each dependent claim on appeal and finds corresponding teachings in Primm. To the extent beginning at page 9 of the principal Brief on appeal that this Brief actually argues the merits of each dependent claim on appeal, we are persuaded by the Examiner's extensive responsive remarks beginning at page 7 of the Answer that treat in detail the features of each dependent claim on appeal. Of particular interest is the Examiner's statement at page 9 of the Answer, repeated at page 12, that HTTP is a standard or common protocol used by operating systems that utilize port/socket 80 Internet related communications, the same as that disclosed. These remarks and all responsive positions of the Examiner in the Answer have not been contested or otherwise challenged in the Reply Brief. As a final matter, Appellant's position at page 9 of the principal Brief, which is repeated even in the Reply Brief, that certain claims recite a non-obvious combination, is not understood in the context of the anticipation rejection before us.

CONCLUSION AND DECISION

Appellant has not shown that the Examiner erred in rejecting all claims on appeal, claims 28 through 32 and 34 through 46, under 35 U.S.C. § 102(e).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(v).

AFFIRMED

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